

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

**CLERK'S OFFICE INSTRUCTIONS AND GUIDELINES**

[www.deb.uscourts.gov](http://www.deb.uscourts.gov)

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Clerk of Court

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## Introduction

The Federal Rules of Bankruptcy Procedure and the Local Rules of this Court prescribe the requirements for filing Bankruptcy cases in this Court. The instructions and guidelines on the following pages supplement the Federal and Local rules. These guidelines are intended to provide specific information on requirements of the office of Clerk of Court. Should there be a conflict between these instructions and guidelines and the Rules, the Rules take precedent.

### 1. Clerk's Office; Hours; Emergency Closings; After Hours Filing

The Clerk's Office is located at 824 Market Street, 5th Floor, Wilmington, DE 19801. The public hours are 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The Court observes the following holidays:

New Year's Day (January 1)  
Martin Luther King, Jr.'s Birthday (3<sup>rd</sup> Monday in January)  
President's Day (3<sup>rd</sup> Monday in February)  
Memorial Day (Last Monday in May)  
Independence Day (July 4)  
Labor Day (1<sup>st</sup> Monday in September)  
Columbus Day (2<sup>nd</sup> Monday in October)  
Veteran's Day (November 11)  
Thanksgiving Day (4<sup>th</sup> Thursday in November)  
Christmas Day (December 25)

Occasionally the Clerk's Office will close briefly for staff meetings and other Court events. Notice will be posted on the lobby door in advance of the closing. Traditionally, a staff meeting lasting approximately one hour is held on the first Friday of every month from 8:00 a.m. to 9:00 a.m.

The Clerk's Office may be required to close in the event of inclement weather or other emergency. When possible, emergency contact information will be posted on the Clerk's Office lobby door and recorded on the voice mail box on the Court's main telephone number. Emergency closing information will also be broadcast on radio stations WILM (1450 AM) and WDEL (1150 AM).

### 2. Contact Telephone Numbers

Voice Case Information System:	888-667-5530
Court's Main Number:	302-252-2900
Automation Help Desk:	302-252-2949
Parcels, Inc. (Court's copy service):	800-343-1742
U.S. Trustee's Office:	302-573-6491
Federal Records Center:	215-671-8241
Delaware State Bar Association	302 658-5279 or 800-292-7869
Lawyer Referral Service	302-478-8850

Community Legal Aid

302-575-0600 (New Castle County)  
302-674-8500 (Kent County)  
302-856-0038 (Sussex County)

### 3. Court's Website

General information, opinions, forms, Judge's and electronic filing procedures and the Local Rules can be found on the Court's website at [www.deb.uscourts.gov](http://www.deb.uscourts.gov). Links to case and other information are provided within the site. Please check this site frequently for updated information.

The 'General Information' section contains the address of the Court, hours of operation, public access to Court information and copy service information.

The 'Forms and Documents' section contains sample forms including an application to pay filing fees in installments, claim form, and all forms listed in the Local Rules.

The 'What's New' section provides information regarding new Court projects and procedures. Any changes to existing policies or practices will be posted here.

The CM/ECF section provides information and links to obtaining case information and procedures for electronically filing documents.

### 4. Clerk's Office Operation

As of August 1, 2001, the Court requires that all documents relating to chapter 11 cases and chapter 11 adversarial actions be filed electronically through the Case Management/Electronic Case Files system (CM/ECF). This includes all new chapter 11 cases as well as Chapter 11 cases that were opened prior to August 1, 2001. All Chapter 11 documents submitted for filing over the counter by counsel will not be accepted unless accompanied by a certification as to why the document(s) could not be electronically filed.

As of January 1, 2002, the electronic filing requirements were extended to all documents relating to chapter 7 and 13 cases. This includes electronic filing for all documents related to new Chapter 7 and 13 cases as well as subsequent filings for cases filed prior to January 2002 except documents filed by pro se debtors and parties not represented by counsel.

When filing documents in a jointly administered case, you are required to indicate the lead case number on all documents. The case will be assigned to a case administrator based on the last digit in the lead case number. Listing a case number other than the lead case number will result in documents being directed to the wrong case administrator and ultimately may delay the processing of the document.

5. Dissemination of Information

It is the policy of the Clerk's Office that staff are not permitted to furnish specific information regarding cases to reporters. All requests for information from the media are to be directed to the Clerk of the Court.

Case specific information can be obtained from the Court's website, [www.deb.uscourts.gov](http://www.deb.uscourts.gov) or from the Voice Case Information System, (888) 667-5530. A search fee of \$20 will be charged for case specific information provided by the Clerk's Office.

6. Caption

Pursuant to Del. Bankr. LR 9004-1, documents submitted for filing shall contain in the caption, the title of the case, the case number assigned, the initials of the Judge to whom the case has been assigned, and, if applicable, the adversary proceeding number. All documents filed with the Clerk, which relate to a document previously filed and docketed, shall contain in its title the title of the related document and its docket number (if available).

When filing motions, the hearing date and time as well as the objection date and time shall be typed in bold print in the caption of the notice and motion and all related pleadings, typed below the case or adversary number as well as in the text of the notice. (Del.Bankr.LR 9004-1)

7. Filing Fees

The payment of fees for all electronically filed cases will be made automatically by charging the credit card number which is on file with the Clerk's Office. Please see procedural information for registering for filing under CM/ECF for more information regarding credit cards. Visa, Master Card, Diners Club, American Express and Discover are accepted. Attorneys registering credit card information with the Court are responsible for ensuring that the credit card will be valid at the time of fee assessment. In the event that a credit card is denied for processing, attorneys will be expected to submit another type of payment immediately to the office of Clerk of Court. If payment is not received, the office of Clerk of Court will move to dismiss new filings.

If the need arises, checks and money orders can still be accepted. Please contact the office of Clerk of Court to make special arrangements for payment other than credit card. Cashier, certified, law firm checks or money orders are acceptable and should be made payable to "U.S. Bankruptcy Court." Personal checks will NOT be accepted.

When paying for a case through an approved installment plan for electronically filed cases, initial payment is done by attorney credit card. Conventional filings should be accompanied by appropriate payment. Subsequent installments may be submitted by check or money order.

Pursuant to Del.Bankr.LR 1006-1(a), only individual debtors (including joint petitions filed by a husband and wife) may apply to pay the filing fee in installments. An Application to

Pay Filing Fees in Installments may be obtained from the Clerk's Office or on the Court's website at [www.deb.uscourts.gov](http://www.deb.uscourts.gov).

Filing fees and other fees charged by the Clerk's Office are as follows:

<u>New Petitions:</u>	<u>Chapter 7 petition:</u>	<u>\$200.00</u>
	<u>Chapter 11 petition (not railroad):</u>	<u>\$830.00</u>
	<u>Chapter 11 petition (railroad):</u>	<u>\$1,030.00</u>
	<u>Chapter 12 petition (family farmer):</u>	<u>\$230.00</u>
	<u>Chapter 13 petition:</u>	<u>\$185.00</u>
	<u>Ancillary (Sec. 304):</u>	<u>\$830.00</u>
<u>Case Reopening:</u>	<u>Reopen a Chapter 7 or 13:</u>	<u>\$155.00</u>
	<u>Reopen a Chapter 11:</u>	<u>\$800.00</u>
	<u>Reopen a Chapter 12:</u>	<u>\$200.00</u>
<u>Case Conversion:</u>	<u>Convert a Chapter 7 to a 13:</u>	<u>No fee</u>
	<u>Convert a Chapter 13 to a 7:</u>	<u>\$15.00</u>
	<u>Convert a Chapter 7 to an 11:</u>	<u>\$645.00</u>
	<u>Convert a Chapter 11 to a 7:</u>	<u>\$15.00</u>
	<u>Convert a Chapter 13 to an 11:</u>	<u>\$645.00</u>
<u>Amendments:</u>	<u>Amendments to Schedules D, E or F:</u>	<u>\$20.00</u>
	<u>Amendments to Master Mailing List:</u>	<u>\$20.00</u>
<u>Motions:</u>	<u>Motion to Withdraw Reference:</u>	<u>\$75.00</u>
	<u>Motion to Compel Abandonment of Property:</u>	<u>\$75.00</u>
	<u>Motion to Terminate, Annul, Modify or Condition:</u>	
	<u>The Automatic Stay:</u>	<u>\$75.00</u>
<u>Other:</u>	<u>Appeals:</u>	<u>\$105.00</u>
	<u>Cross-Appeals:</u>	<u>\$100.00</u>
	<u>Adversary/Complaints:</u>	<u>\$150.00</u>
	<u>Certifications:</u>	<u>\$7.00</u>
	<u>Exemplifications:</u>	<u>\$14.00</u>
	<u>Reproducing/Photocopies:</u>	<u>\$0.50/page</u>
	<u>Registration of Judgment from Another District:</u>	<u>\$30.00</u>
	<u>Search Fee:</u>	<u>\$20.00</u>
	<u>PACER &amp; WebPACER (per minute/per page)</u>	<u>\$0.60/\$0.07</u>
	<u>Retrieve Files from Federal Records Center:</u>	<u>\$35.00</u>
	<u>Returned Check Fee:</u>	<u>\$35.00</u>
	<u>Deconsolidation of Joint Debtor -Chapter 7 or 13:</u>	<u>\$77.50</u>
	<u>Deconsolidation of Joint Debtor - Chapter 11:</u>	<u>\$400.00</u>
	<u>Court Recording - CD Copy:</u>	<u>\$20.00</u>

## 8. Filing of Petition

All petitions must be filed electronically using CM/ECF. Prior to filing chapter 11 petitions, the Clerk of Court is to be called and advised as to when the petitions will be filed with the Court. At that time, notify the Clerk of Court as to the timing request for First Day Hearings. Do not call chambers regarding scheduling First Day Hearings. Also, do not call the chambers of the Judge assigned to a new chapter 11. Chambers of the Judge assigned to a new chapter 11 filings will contact debtor's counsel regarding scheduling First Day Hearings.

The Clerk's Office will not accept a voluntary petition presented for filing by a debtor who had a prior case dismissed by an order which prohibited the debtor from filing for a period of time that has not yet expired, or where a Court order sets forth conditions for refiling and those conditions have not been met.

The official petition consists of two pages which must be completed in their entirety. When filing schedules, file everything listed in the Clerk's Instructions required for that chapter, even if you must indicate "None". Do not omit schedules that you think are unnecessary because it may appear that you have forgotten to complete the required pages and you may receive a notice of deficiency or your case may be dismissed. Specific filing requirements are as follows:

### Chapter 7 – Individual/Joint Debtors\*

1. \$200.00 Filing Fee
2. Petition
3. Disclosure of Compensation of Attorney
4. Notice to Consumer Debtor
5. Statement of Financial Affairs & Declaration Signed by Debtor
6. Statement of Intention (only if debtor(s) Schedule of Assets and Liabilities contain consumer debts secured by property of the estate).
7. Schedule A – Real Property
8. Schedule B – Personal Property
9. Schedule C – Property Claimed as Exempt
10. Schedule D – Creditors Holding Secured Claims
11. Schedule E – Creditors Holding Unsecured Priority Claims
12. Schedule F – Creditors Holding Unsecured Nonpriority Claims
13. Schedule G – Executory Contracts and Unexpired Leases
14. Schedule H – Codebtors
15. Schedule I – Current Income of Individual Debtor(s)
16. Schedule J – Current Expenditures of Individual Debtor(s)
17. Summary of Schedules
18. Creditor matrix

\*Please note that electronically filed Chapter 7 cases should initially be filed as 'No Asset' cases.

#### Chapter 7 – Corporate Debtors\*

1. \$200.00 Filing Fee
2. Petition
3. Disclosure of Compensation of Attorney
4. Statement of Financial Affairs & Declaration Signed by Debtor
5. Schedule A – Real Property
6. Schedule B – Personal Property
7. Schedule D – Creditors Holding Secured Claims
8. Schedule E – Creditors Holding Unsecured Priority Claims
9. Schedule F – Creditors Holding Unsecured Nonpriority Claims
10. Schedule G – Executory Contracts and Unexpired Leases
11. Schedule H – Co-debtors
12. Summary of Schedules
13. Creditor matrix

\*Please note that electronically filed Chapter 7 cases should initially be filed as 'No Asset' cases.

#### Chapter 11 – Individual/Joint Debtors

1. \$830.00 Filing Fee
2. Petition
3. Disclosure of Compensation of Attorney
4. Notice to Consumer Debtor
5. Statement of Financial Affairs & Declaration Signed by Debtor
6. Schedule A – Real Property
7. Schedule B – Personal Property
8. Schedule C – Property Claimed as Exempt
9. Schedule D – Creditors Holding Secured Claims
10. Schedule E – Creditors Holding Unsecured Priority Claims
11. Schedule F – Creditors Holding Unsecured Non-priority Claims
12. Schedule G – Executory Contracts and Unexpired Leases
13. Schedule H – Co-debtors
14. Schedule I – Current Income of Individual Debtor(s)
15. Schedule J – Current Expenditures of Individual Debtor(s)
16. Summary of Schedules
17. List of 20 Largest Unsecured Creditors
18. Creditor matrix



## Chapter 11 – Corporate Debtors

1. \$830.00 Filing Fee
2. Petition
3. Exhibit “A” to Voluntary Petition
4. Disclosure of Compensation of Attorney
5. Statement of Financial Affairs & Declaration Signed by Debtor
6. Schedule A – Real Property
7. Schedule B – Personal Property
8. Schedule D – Creditors Holding Secured Claims
9. Schedule E – Creditors Holding Unsecured Priority Claims
10. Schedule F – Creditors Holding Unsecured Non-priority Claims
11. Schedule G – Executory Contracts and Unexpired Leases
12. Schedule H – Co-debtors
13. Summary of Schedules
14. List of Equity Security Holders
15. List of 20 Largest Unsecured Creditors
16. Creditor matrix

## Chapter 12 – Family Farmer

1. \$230.00 Filing Fee
2. Petition
3. Disclosure of Compensation of Attorney
4. Notice to Consumer Debtor
5. Statement of Financial Affairs & Declaration Signed by Debtor
6. Schedule A – Real Property
7. Schedule B – Personal Property
8. Schedule C – Property Claimed as Exempt
9. Schedule D – Creditors Holding Secured Claims
10. Schedule E – Creditors Holding Unsecured Priority Claims
11. Schedule F – Creditors Holding Unsecured Non-priority Claims
12. Schedule G – Executory Contracts and Unexpired Leases
13. Schedule H – Co-debtors
14. Schedule I – Current Income of Individual Debtor(s)
15. Schedule J – Current Expenditures of Individual Debtor(s)
16. Summary of Schedules
17. Supplement to Statement of Financial Affairs
18. Creditor matrix
19. Plan and Plan Analysis

## Chapter 13

1. \$185.00 Filing Fee
2. Petition
3. Notice to Consumer Debtor
4. Disclosure of Compensation of Attorney
5. Statement of Financial Affairs & Declaration Signed by Debtor
6. Schedule A – Real Property
7. Schedule B – Personal Property
8. Schedule C – Property Claimed as Exempt
9. Schedule D – Creditors Holding Secured Claims
10. Schedule E – Creditors Holding Unsecured Priority Claims
11. Schedule F – Creditors Holding Unsecured Non-priority Claims
12. Schedule G – Executory Contracts and Unexpired Leases
13. Schedule H – Co-debtors
14. Schedule I – Current Income of Individual Debtor(s)
15. Schedule J – Current Expenditures of Individual Debtor(s)
16. Summary of Schedules
17. Plan and Plan Analysis
18. Creditor matrix

### 9. List of Creditors and Equity Security Holders in Voluntary Cases

Pursuant to Del.Bankr.LR 1007-1(a), in every chapter 11 case where there are more than 200 creditors, the petition shall be accompanied by a list of all creditors and parties with whom the debtor conducts business, together with their full mailing address. A certification shall be attached to the bankruptcy petition certifying that the filing contains the full and complete list for the case.

Similarly, the list of equity security holders, as required by Fed.R.Bankr.P 1007(a)(3), shall be filed in the same electronic format. These lists can be in the form regularly kept by the debtor in the ordinary course of business, so long as it is sufficient to permit the notice/claims agent to promptly notice all creditors and equity security holders in the case.

### 10. 341 Notices in Chapter 11 Cases

In Chapter 11 cases, the Clerk's Office will issue draft 341 Notices to debtor's counsel. It is the responsibility of debtor's counsel to modify the document as needed for the chapter 11 case. To facilitate changes, a form 341 Notice has been posted on the Court's website. Please enter information as appropriate. The notice may be distributed in the format provided. Be sure to include a contact telephone number for informational purposes. Do not include the address and phone number of the Court. Only include claims agent information if the claims agent has been approved through Court Order. If a claims agent has been approved by the Court, include a contact telephone number (preferably a toll-free number) and specify the claims agent information as approved by the Court. If you substantively modify the 341 Notice, you must

contact the Clerk of Court for approval. If you do not substantively deviate from the form 341 Notice posted on the website, there is no need to forward the notice to the Clerk's Office for approval.

#### 11. Chapter 11 "Mega Case" Administration

A large chapter 11 case may be deemed as a "mega case," normally a case with \$100 million or more in assets and 1,000 or more creditors. Pursuant to 28 U.S.C. § 156(c), for those cases designated as a mega case, the debtor may be required to provide staffing or services to assist the Court in the administration of the case. This assistance shall include, but not be limited to, photocopying, noticing, docketing, calendaring, processing mail and responding to telephone inquiries. This staffing shall be paid for by the estate but hired and administered through the office of Clerk of Court. A generic version of the order pursuant to 28 U.S.C. § 156(c) can be found on the Court's website. Counsel is required to file a proposed mega case staffing order with first day motions for all mega cases, which will be entered at the Court's discretion.

#### 12. Procedures for Entry of Default, Default Judgment

In an effort to expedite requests for entry of default and/or default judgment, the Clerk's Office has implemented the following procedures.

When a Request for Entry of Default and/or a Request for Default Judgment is filed, a proposed Entry of Default and/or Default Judgment must be attached. A copy of the proposed entry of Default and/or Default Judgment must then be e-mailed, in word format, to DEBDefault\_Judgement@deb.uscourts.gov.

If the Clerk's Office determines that the documents are in good order and a default and/or default judgment can be entered, the proposed Default and/or Default Judgment will be approved and docketed. (Copies of the Entry of Default Form and the Judgment by Default Form can be found on the Court's website ([www.deb.uscourts.gov](http://www.deb.uscourts.gov)) under the Forms and Documents listing.)

#### ENTRY OF DEFAULT

An entry of default precedes the issuance of a default judgment. It can be requested when the defendant has failed to answer, plead or defend. The following information must be included in a request for entry of default:

1. Date of issuance of summons;
2. Statement of whether the court fixed a deadline for filing an answer or motion, or whether the 30 day (35 days for the United States and its offices) limit applied;
3. Date of service of the complaint;

4. Date of filing affidavit of service;
5. Statement that no answer, motion or responsive pleading has been filed within the time limit fixed by the Court or by Fed. R. Bankr. P. 7012(a); and,
6. Statement that defendant is not in the military service, as required by 50 U.S.C. app. Section 520.

## ENTRY OF DEFAULT JUDGMENT

Once a default has been entered by the Clerk, parties may request entry of default judgment. Judgments by default may be entered by the Clerk or a Judge depending on the circumstances. The Clerk is required to enter a judgment by default on request of the plaintiff and upon affidavit of the amount due if the following conditions are met:

1. Plaintiff's claim is for a sum certain as stated in the complaint or for a sum which can by computation be made certain;
2. Defendant has been defaulted for failure to appear;
3. Defendant is not an infant or incompetent person, nor in the military service.

Note: A Request for Entry of Default and a Request for Entry of Default Judgment can be e-filed as two separate documents simultaneously. The Clerk's office would first process the Request for Default and then the Request for Default Judgment. Should it not be appropriate to enter a default, a docket entry indicating "Default Denied" with the appropriate reason would be entered. The Request for Default Judgment would thereupon become moot.

### 13. Affidavits of Service

When filing an Affidavit of Service, be sure to reference the docket number of the document that was served, if available. If you do not reference the docket number of the document that was served the assigned case administrator may not be able to relate the Affidavit of Service to that document.

### 14. Certificates of No Objection

A sample Certificate of No Objection is included in the Local Rules (Local Form 107) and on the Court's website at [www.deb.uscourts.gov](http://www.deb.uscourts.gov). Be sure to include the docket number of the application referred to in the certificate. A copy of the original application/motion and order is to accompany, but not be attached to, the certificate of no objection. The Judge will sign the order that was provided with the original application. If the order has been revised or amended, refer to Item 15. Amendment to Order below and to "Chambers," then "ECF Chambers Procedures" on the Court's website.

15. Amendment to Order

All amended orders must clearly indicate in the caption that the order is "Amended."

Any request for amendment of an order, either prior to or following the entry of a previous Order by the Court, shall be made only as follows: (i) by Certification of Counsel that the amendment is not material and that all parties in interest have consented to the amendment; (ii) by motion pursuant to this Rule (9013-1), or (iii) by the filing of a stipulation to amend, signed by all interested parties. Any request for amendment shall state the reason for the amendment, the date of hearing (if a prior hearing was held), and have attached the proposed amended order and a black-lined copy reflecting the changes.

16. Proof of Claim Forms

Until further notice, Proof of claim forms are required to be filed via paper. CM/ECF does not support external filing of claims. For information on filing large numbers of claims or large numbers of transfers of claims, please contact the Automation Department in the Office of Clerk of Court. Proof of claim forms may be printed from the Forms and Documents section of the Court's website. Proof of claim forms are also available from any bankruptcy Court. The original proof of claim should be filed, no copies are required.

If the filer wishes to receive a date/time stamped copy of the claim form by return mail, an additional copy of the claim form must be submitted with the original claim along with a self-addressed stamped envelope.

If a claims agent has been assigned to the case, proof of claim forms should be mailed directly to the claims agent. The name and address of the claims agent will appear on the 341 meeting notice and on documentation listing the claims bar date. Claim forms that are mailed directly to the claims agent are considered to be filed with the Court.

17. Withdrawal of Cases or Adversary Proceedings

The filing fee for a motion to withdraw reference is \$75.00. The original withdrawal motion and answers/responses to the motion will be filed in the Bankruptcy Court and docketed in the main case. All briefing is filed in the Bankruptcy Court.

Once briefing is completed, a copy of the documents will be transmitted to the Clerk of the District Court along with a cover sheet. The Clerk of the District Court will then assign the matter to a District Court Judge who may or may not sign a withdrawal order. Until the District Court rules on the motion for withdrawal of Reference, the case or adversary continues to proceed in the Bankruptcy Court.

18. Appeals

Upon filing of an Appeal, the U.S. Bankruptcy Court Clerk's Office forwards case documents to the appropriate higher level Court after they are appropriately assembled. Case information for cases assigned to U.S. Bankruptcy Court Judges is forwarded the U.S. District Court. Case information for cases assigned to U.S. District Court Judges is forwarded to the 3<sup>rd</sup> Circuit Court of Appeals. All documents designated on the appeal must be delivered in hard copy format to U.S. Bankruptcy Court Clerk's office. One copy is required.

19. Facsimile Documents

Pursuant to Del.Bankr.LR 5005-2, the Clerk's Office does not accept filings via facsimile. Please contact the office of Clerk of Court in the event of the need to file a document under emergency conditions.

20. Claims Agents

Claims agents are required to keep claims registers in an electronic format that may be easily transmitted to the Clerk of Court. The information shall be in ASCII format and submitted to the Clerk's Office in alpha and numeric forms on a monthly basis unless otherwise indicated. Please contact the Automation Department for additional information. Claims register information shall be immediately provided to the Clerk of Court upon request. This is especially critical in the event a case converts from one chapter to another.

Claims agents may be released from the responsibility of processing claims in the event a case converts from a chapter 11 to a chapter 7 upon motion to the Court. Upon receiving notice of the conversion, the claims agent must transmit all claims and claim registers to the Court. In order to release a claims agent, the Court must receive a motion or request for release of the claims agent from debtor's counsel. If appropriate, the Clerk of Court will then enter an order formally releasing the claims agent from their responsibility. Claims agents must continue to process claims until formal release is received.

Claims agents are also responsible for processing all transfer of claim forms. The original transfer of claim forms shall be mailed to and docketed by the Court unless prior arrangements have been made to have them electronically transmitted. Copies of the transfer of claim forms shall be mailed to the claims agent for processing.

Upon the closing of a case the claims agent is responsible for transmitting the claims registers to the Federal Records Center (FRC). The claims agent must contact the Court for an accession number and to advise the Court as to how many boxes are to be shipped. The Court will complete the FRC form and fax it to the claims agent who will then ship the claims directly to the FRC.

21. Lodged Exhibits

All exhibits that are filed with the Court shall be labeled prior to submission. All exhibits must be accompanied by an exhibit list that contains case data, exhibit label information and a description of the exhibit.

Pursuant to Del.Bankr.LR 5003-1, all models, diagrams, documents or other exhibits lodged with the Clerk that are admitted into evidence at trial shall be retained by the Clerk until the expiration of the time for appeal without any appeal having been taken, entry of a stipulation waiving or abandoning the right to appeal, final disposition of any appeal, or order of the Court, whichever occurs first.

Upon culmination of the appeal process, the counsel who submitted the exhibits will have thirty (30) days within which to pick-up exhibits from the Court. Please contact the Court to arrange for pick up. Should pick up arrangements not be made, upon expiration of thirty days the Clerk's Office will dispose of the exhibits.

22. Registry Funds – Interest Bearing Account

Whenever a party seeks a Court order for money to be deposited by the Clerk in an interest-bearing account, the party shall personally deliver the order to the Clerk, who will inspect the proposed order for proper form and content and compliance with 28USC Section 2041, prior to signature by the Judge.

Any order obtained by a party or parties in any matter that directs the Clerk to invest funds deposited in the registry of the Court in an interest-bearing account or investment vehicle shall include the following:

- A. The amount to be invested;
- B. The name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;
- C. A designation of the type of account or instrument in which the funds may be deposited; and
- D. Wording which directs the Clerk to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

23. Registration for Electronic Case Filing

Each attorney admitted to practice in this Court and in good standing shall be entitled to an ECF password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other documents in accordance with ECF.

A registration form shall be submitted for each attorney and each password. The registration form is available from the Court's web site at <http://www.deb.uscourts.gov>. All

registration forms shall be mailed or delivered to the Office of the Clerk, United States Bankruptcy Court, District of Delaware, 824 Market Street, 5<sup>th</sup> Floor, Wilmington, Delaware 19801, ATTN: Financial Administrator, PERSONAL AND CONFIDENTIAL. Each attorney registering in the ECF System will receive an Internet e-mail message after his or her password has been assigned. This is to insure that the attorney's e-mail address has been entered correctly in the ECF System. The password information will then either be mailed to the attorney by first-class mail, or the attorney may arrange to pick-up his/her password at the Office of the Clerk. No attorney or other person shall knowingly permit or cause to permit the attorney's password to be utilized by anyone other than an authorized member or employee of the attorney's law firm.

Attorneys may find it desirable to change their Court-assigned passwords periodically. This can be done by contacting the Office of the Clerk, Automation Department. In the event that an attorney believes that the security of an existing password has been compromised and that a threat to the ECF System exists, the attorney shall give immediate notice by telephone to the Clerk of the Court, Chief Deputy Clerk or Systems Manager and confirm by facsimile in order to prevent access to the System by use of that password.

#### 24. Electronic Filing and Service of Documents

Except as provided for elsewhere, all petitions, motions, memoranda of law or other pleadings and documents required to be filed with the Court in connection with a case assigned to ECF shall be electronically filed by ECF.

All documents which form part of a pleading, which are filed at the same time by the same party, may be electronically filed together under one docket number. Each component shall be broken down into attachments, i.e. when filing a motion, attachments will include the Form of Order, Notice of Motion and Certificate of Service filed as attachments with the appropriate event codes.

Each person electronically filing a pleading or other document shall serve the pleading or document on those parties entitled by the Federal Rules of Bankruptcy Procedure (Fed.R.Bankr.P.) or the Delaware Bankruptcy Local Rules (Del.Bankr.LR). When required, service of a paper copy is to be done in the manner provided in the Fed.R.Bankr.P. and Del.Bankr.LR.

Courtesy copies shall be provided to the assigned Judge upon request. Paper copies of the "Notice of Electronic Filing" shall accompany the paper copy of the electronically filed pleading or document. The paper copy of the electronically filed pleading or document shall be clearly marked "ECF CASE – COURTESY COPY". Please refer to chambers procedures for specific requirements by Judge.

Upon the filing of any pleading, the ECF System will send a "Notice of Electronic Filing" to all registered ECF participants and the confirmation received by the filing party will contain a list of all parties receiving such notice. A party filing electronically is not required to serve the pleading or other document (other than the "Notice of Electronic Filing" generated by the ECF System) on any party who is a registered ECF participant and has been issued a live ECF password.



Use of the attorney's login/password constitutes the attorney's signature for all purposes for all documents which must contain original signatures. Any document containing original signatures shall indicate on the electronically filed document a signature by noting "/s/ Jane Doe".

For filings that require a fee, application for authorization of credit card payment must be made with the Court's Financial Administrator. A Credit Card Authorization Form is attached.

If a motion or other electronically filed document is to be set for hearing, the filing party must obtain a hearing date and time in accordance with the Local Rules and Judges' chambers procedures, before filing.

The person electronically filing a pleading or other document will be responsible for designating a title for the document by using one of the entries contained in the Glossary of Events attached to the User's Manual.

The attorney or other user electronically filing a document shall retain the paper document containing the original signature(s) for the longer period of one year after the case is closed or all appeals are finalized, unless the Court orders a different period. This retention does not affect or replace any other retention period required by other applicable laws or rules. If the original document is returned to the client, the attorney shall advise the client of the requirement to retain the document as stated above.

## 25. Fee Applications

Fee applications must be submitted pursuant to Local Rules and Federal Bankruptcy Rules. Please note that it is not necessary to enter specific fee application information onto CM/ECF docket entries. Specific monetary amounts are required within the application but no longer need to be entered and reported through the Court docket.

## 26. Conventional Filing of Documents

The following documents shall be filed conventionally and not electronically unless authorized by the Court:

- A. Document(s) to be filed under seal;
- B. Trial or hearing exhibits;
- C. Proof of Claim;
- D. Transcripts of Court hearings; and
- E. Any other document as determined by the Court.

Paper copies of pleadings or other documents which are filed conventionally or on 3.5" disk rather than electronically shall be served on the parties as provided in the Fed.R.Bankr.P and Del.Bankr.LR except as otherwise required by the Court.

27. Public Access to the ECF Docket

The public will have electronic access to the documents filed in ECF and to the ECF docket in the Office of the Clerk, Monday through Friday from 8:00 a.m. until 4:00 p.m. Any person or organization with a valid PACER login and password may access the ECF System at [ecf.deb.uscourts.gov](http://ecf.deb.uscourts.gov). Such access to the ECF System will allow retrieval of the docket sheet and documents and will be on a “read only” basis.

Paper copies and certified copies of the electronically filed documents may be purchased through the Court's copy service - Parcels, Inc @ (302) 658-9971 or (800) 343-1742. Copies are also available from the Office of the Clerk, 824 Market Street, 5<sup>th</sup> Floor, Wilmington, Delaware 19801, Monday through Friday from 8:00 a.m. until 4:00 p.m. The fee for copying and certification by the Office of the Clerk will be in accordance with 28 U.S.C. § 1930.

28. Bar Admission

For questions regarding bar admission and admission pro hac vice, please refer to District Court Local Rule 83.5. Please be aware that those attorneys requesting to be admitted pro hac vice have thirty (30) days to become associated with local counsel from the date that they file their first paper in the case.

29. Courtroom Decorum

The purpose of these guidelines is to state, for the guidance of those unfamiliar with the traditions of this Court, certain basic principles concerning courtroom behavior and decorum. These requirements are minimal, not all-inclusive, and are intended to emphasize and supplement, not limit, the ethical obligations of counsel under the Rules of Professional Conduct or the time-honored customs of experienced trial counsel. Individual Judges of the Court may announce and enforce additional prohibitions or requirements, or may excuse compliance with any one or more of the provisions listed.

When appearing in this Court, unless excused by the Judge, all counsel (including, where the context applies, all persons at counsel table) shall abide by the following:

- A. Dress in business attire appropriate to the dignity of the Court.
- B. Stand as Court is opened, recessed or adjourned.
- C. Stand when addressing, or being addressed by, the Judge.
- D. Address all remarks to the Judge, not to opposing counsel.
- E. Refer to all persons, including witnesses, other counsel and the parties by surnames and not by their first or given names.

- F. In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the Judge.
- G. In examining a witness, counsel shall not repeat or echo the answer given by the witness.
- H. Counsel shall admonish and discourage all persons at the counsel table from making gestures, facial expressions, audible comments, or the like, such as manifestations of approval or disapproval, during the testimony of witnesses or at any other time.
- I. Cellular phones are prohibited in the courtrooms at all times.
- J. Speak loudly and clearly and announce yourself for proper electronic recording.
- K. Food and drink are prohibited in the courtrooms.

30. Electronic Court Recording

As of January 2002, the Court utilizes Electronic Recording Operators to record Court proceedings. During Court proceedings, please identify yourself prior to speaking and speak clearly. Move to appropriate microphones in order to be clearly heard. It is especially important to state your name if you have joined proceedings via teleconference. Transcripts may be ordered from the Electronic Recording Operator. Transcript Order forms and more specific information are available from the Court's website [www.deb.uscourts.gov](http://www.deb.uscourts.gov).

31. Court Proceedings

Please refer to individual Judge pages on the Court's website for specific procedural information for the Judge assigned to the case.

32. Pro Se Debtor Information (petitioners not represented by counsel)

In addition to the other informational guidelines supplied by the Clerk's Office, please review the following items to insure that your papers are prepared in the correct format using the correct forms and that other Clerk's Office procedures are followed. These procedures apply only to the cases filed in the United States Bankruptcy Court for the District of Delaware.

**THE STAFF OF THE JUDGES' AND CLERK'S OFFICE ARE NOT PERMITTED TO ASSIST YOU WITH PREPARING YOUR PETITION OR OTHER DOCUMENTS, OR PROVIDE YOU WITH LEGAL ADVICE.**

Debtors paying their own filing fees must pay by cash, United States Postal money order or cashiers check. Local attorneys and non-debtor parties may also pay fees by check or credit

card. The Clerk's Office accepts Visa, Master Card, American Express and Discover. Do not send cash through the mail. Make checks and money orders payable to "U.S. Bankruptcy Court."

Only individual debtors (including joint petitions filed by a husband and wife) may apply to pay the filing fee in installments. An Application to Pay Filing Fees in Installments may be obtained from the Clerk's Office or from the Court's website at [www.deb.uscourts.gov](http://www.deb.uscourts.gov). The form is located in the Forms and Documents section. Do not use the form provided in the bankruptcy kit you purchased. Please refer to Fed.R.Bankr.P. 1006 for further information on installment applications. Please note that if filing fees are owed from a previous case, requests to pay filing fees in installments will be denied. If a husband and wife are filing a joint petition, only one filing fee is required.

Both debtors, if a joint petition, must sign the application.

### 33. Petition

The official bankruptcy petition consists of two pages, which must be fully completed by the debtor(s). For a joint petition, wherever signatures are required, both husband and wife must sign, even if the form you are using does not provide enough lines for both to sign. Pro se debtors must also provide the Court with a contact telephone number.

An individual and a corporation, trust or partnership cannot file on the same petition. Separate petitions must be filed. A corporation, trust or partnership filing a petition must be represented by an attorney.

### 34. Preparing the Creditor Matrix

Creditor matrices must be in the following format when e-filed or when required to be submitted on a 3.5" disk. All information must be left justified. The first line must be the Case Number formatted as YY-12345 (02-12345). ONLY input the case number. Do not enter any other words such as 'Case #'. Skip one line then proceed with the matrix format as follows:

- A. The first line of the file must be the first name on the creditor matrix.
- B. The second line should be either the company name or the first line of the address.
- C. The third and any additional lines should complete the address.
- D. The last line of the address must be the city, state and zip code.
- E. All of this information should not exceed six lines.
- F. Leave one blank line between each creditor.
- G. The file must be saved in ASCII format. \*
- H. The creditor matrix should then be uploaded in CM/ECF. \*
- I. DO NOT PUT ANY OTHER INFORMATION ON THE MATRIX. IT MUST CONTAIN CREDITORS ONLY.

\*For detailed instructions on How to Convert a Creditor Matrix to an ASCII File and Uploading

a Creditor Matrix, refer to instructions posted on the CM/ECF section of the Court's website, [www.deb.uscourts.gov](http://www.deb.uscourts.gov).

### 35. Schedules

When filing schedules, file everything listed in the Clerk's Instructions and Guidelines that is required for that chapter and type, even if you indicate "None." Do not omit schedules. If the schedules are not filed along with the petition, they must be filed within fifteen (15) days of the date the petition is filed or the petition may be dismissed without notice.

The plan must be submitted on Local Form 103 and the plan analysis must be submitted on Local Form 104. These forms may be found in the Forms and Documents section on the Court's website at [www.deb.uscourts.gov](http://www.deb.uscourts.gov). You must send a copy of the plan and plan analysis and any supplemental attachments to the chapter 13 trustee, Michael Joseph, at the time they are filed with the Court. You must start making your plan payments to the chapter 13 trustee no later than 30 days after the filing of your petition.

If the Clerk's Instructions and Guidelines differ from the instructions contained in the bankruptcy kit you purchased, follow the Clerk's Instructions and Guidelines and use the Local Forms. If your bankruptcy kit contains blue backing sheets, do not use them.

As a debtor, you must attend a meeting of creditors and, if applicable, pay filing fee installments or chapter 13 plan payments on time or your case may be dismissed without further notice to you. You are responsible for following up with your case after filing your petition to make sure you are aware of the date set for you to appear at your first meeting of creditors.

Bankruptcy law requires each debtor (or both debtors if husband and wife filed together) who files a bankruptcy petition to appear at a "meeting of creditors." The meeting is not presided over by a Judge. Instead, the trustee assigned to your case will ask you questions under oath about your estate. The bankruptcy estate consists of the debtor's funds, personal and real property, and any claims. Creditors who attend the meeting will also be permitted to ask you questions.

You and all of the creditors listed on your matrix will receive notice in the mail which will provide the date, time and location of your first meeting of creditors. IT IS VERY IMPORTANT THAT YOU PROVIDE CORRECT ADDRESS INFORMATION FOR YOURSELF AND YOUR CREDITORS AND NOTIFY THE COURT IN WRITING IF THERE ARE ANY CHANGES.

### 36. Emergency Conventional Filings

In the event that the Electronic Filing System is unavailable due to the Court experiencing technical difficulties, the filing party should proceed with the filing. First, if the filing is not time critical, please wait for the Electronic Filing System to return to normal operation. The system may occasionally be down for ½ hour to one hour. Rarely is the system down for longer time periods. If a filing deadline will not be met due to system unavailability,

documents may be brought to the office of Clerk of Court and time stamped with an official time stamp. Time stamping machines are available in the Clerk's office and in the lobby area of 824 Market St. Pertinent documents should be time stamped and subsequently e-filed when the Electronic Filing System resumes normal operation. Please file the document and promptly contact the Clerk's office regarding the inconsistency of the filing date and time. Clerk's office staff can make appropriate adjustments to the filing date and time. Requests to change the filing date and time must be presented with verification that the Electronic Filing System was down, and a date and time stamp viewable by the Court. Please note that all system problems are logged and verifiable by the Court.

If you are unable to comply with the above procedures, please contact the Help Desk at (302) 252-2887. Staff will assist in alternatives to e-filing including: e-mail, paper filing with disk or CD Rom attachments, and/or conventional paper filing.

During office hours (8am – 4pm), public access, terminals located within the Clerk's office, are available for e-filing.

Pursuant to Del.Bankr.LR 5005-2, the Clerk's Office does not accept filings via facsimile.

The drop box in the lobby of 824 Market Street is only to be utilized after office hours for those documents which cannot be electronically filed.